Recent Decisions

ADMIRALTY: JURISDICTION: WORKMEN'S COMPENSATION ACTS—A stevedore engaged in piling upon a dock cargo which was being unloaded from a vessel, sustained injuries from a fall which resulted in his death. *Held:* that recovery could be had under the state workmen's compensation act. *The State Industrial Commission of the State of New York v. Nordenholt Corporation and the Traveler's Insurance Company* (1922) 42 Sup. Ct. Rep. 567.

This case presents one of the situations left open to conjecture by the line of cases (see 10 California Law Review, 234, n. 3) of which the case of Grant Smith-Porter Ship Company v. Rhode (1922) 66 L. Ed. 172, 42 Sup. Ct. Rep. 157, is one of the most recent, namely, that of an employee under a maritime contract injured on shore, as distinguished from that of such an employee injured on navigable waters, in which situation recovery has uniformly been denied (Southern Pacific Co. v. Jensen (1917) 244 U. S. 205, 61 L. Ed. 1086, 37 Sup. Ct. Rep. 524, L. R. A. 1918C 451; Knickerbocker Ice Co. v. Stewart (1920) 253 U. S. 149, 64 L. Ed. 834, 40 Sup. Ct. Rep. 438, 11 A. L. R. 1145; Western Fuel Co. v. Garcia (1921) 42 Sup. Ct. Rep. 89), and that of an employee under a non-maritime contract, injured on the water, in which recovery was allowed in the Rhode case.

In the Rhode case it was pointed out that because of the nature of the contract of employment the employee remained under the jurisdiction of local law rather than that of admiralty. (See 10 California Law Review, 234.)

In the present case we have a maritime contract of employment (Hughes on Admiralty, p. 119; see also the Jensen and Knickerbocker cases cited above) where the contract of the employer is also maritime, and it might appear to follow from the reasoning in the Rhode case that the local law could not apply. The court points out that as the injury occurred on land there is no basis for admiralty jurisdiction, which in such a case demands a maritime location as a primary requisite.

It would seem, then, that these cases may be reconciled under a line of determination which may be thus summarized: All non-maritime contracts must be considered as made in contemplation of existing state law, including workmen's compensation acts, and injuries sustained under such contracts will be governed by such local law, whether occurring upon land or water. Maritime contracts, on the other hand, must be considered as contemplating the jurisdiction of admiralty in all cases of injuries occurring upon navigable water, but not in those cases where the injury occurs upon land, there being no admiralty law applicable to such injuries because of the locality test (The Plymouth (1865) 70 U. S. (3 Wall.) 20, 18 L. Ed. 125). This situation appears in the following chart:

Contract of Employment	Locality	
	Maritime	Non-maritime
Maritime	Admir.[1]	State Compensation Act[3]
Non-maritime	State Compensation Act[2]	State Compensation Act

State Compensation Act—State workmen's compensation acts applicable.
Admir.—State workmen's compensation acts not applicable; admiralty law alone applicable.

[1] Southern Pacific Co. v. Jensen.
[2] Nordenholt case.
[3] Grant Smith-Porter Co. v. Rhode.

CONSTITUTIONAL LAW: VALIDITY OF TAX ON FUTURE TRADING—The Future Trading Act (approved Aug. 24, 1921) Chap. 86, 142 Stat. 187, imposing a tax of 20 cents a bushel on all contracts for the sale of grain for future delivery but excepting sales on boards of trade designated as "contract markets" by the Secretary of Agriculture. *Held:* Unconstitutional, as an unauthorized exercise of the taxing power given in the Constitution. *Hill et al. v. Wallace and Blair* (May 15, 1922) 42 Sup. Ct. Rep. 453. The two questions for the court material to the decision were: 1. Was the act within the constitutional power of Congress as a regulation of interstate commerce? 2. Could the measure be sustained as a proper exercise of the taxing power given in the Constitution? That it could not be sustained under the power of Congress to regulate commerce is clear, as the court indicated from the fact that the tax is not limited to interstate commerce nor to dealings which Congress may consider as a restraint on interstate commerce. As to its validity under the taxing power, however, the court was confronted with the same problem presented in Bailey v. Drexel Furniture Co. (1922) 42 Sup. Ct. Rep. 449, in which a tax on the products of child labor was held unconstitutional, as attempting to regulate a matter over which Congress had no direct authority. In the instant case the act authorized the Secretary of Agriculture to designate boards of trade as "contract markets" when certain conditions had been performed, all others making contracts for future delivery to be subject to the tax. Then followed a detailed set of regulations, and section 10 provides that failure to comply with the conditions subjects the person to a penalty of 50 per cent of the tax, and punishment by fine or imprisonment, or both, plus the costs of prosecution. It is clear from the content that the act is not intended as a tax but is an attempt at regulation of matter over which Congress has no direct control. The argument that the act upon its face is a revenue measure and that no further inquiry may be made by the courts is absurd; for it would be preposterous if the mere "labelling" of a measure would finally and conclusively determine its nature and validity. It seems that the court was justified in holding the principles